

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA

Plaintiff,

v.

Case No: 12-cr-20072
Honorable Linda V. Parker

FRANK JOSEPH BARTELS,

Defendant.

**OPINION AND ORDER GRANTING DEFENDANT'S MOTION
REQUESTING A JUDICIAL RECOMMENDATION CONCERNING
LENGTH OF RRC/HALFWAY HOUSE PLACEMENT [ECF NO. 64]**

I. Introduction

Defendant Frank Joseph Bartels, who is representing himself pro se from the Federal Bureau of Prisons (“BOP”) Federal Correctional Institution in Milan, Michigan, seeks a judicial recommendation to the BOP to afford Bartels placement at a maximum Residential Re-Entry Center (“RRC”) for the last twelve months of his sentence. (ECF No. 64 at Pg ID 346.) While the Government does not oppose Bartels’ transfer, it argues that the Court lacks the authority to order the BOP to take such action; rather, the Court can only make non-binding recommendations to the BOP. (ECF No. 65 at Pg ID 357.) For the reasons below, the Court is granting Bartels’ Motion Requesting a Judicial Recommendation Concerning Length of

RRC/Halfway House Placement (ECF No. 64) and recommending that the Bureau of Prisons place Bartels in a residential reentry center for the remainder of his sentence.

II. Background

On March 25, 2014, Bartels pled guilty to violating 18 U.S.C. § 922(g)(1) and § 924(a)(1) for possession of a firearm as a felon. (ECF No. 63 at Pg ID 340.) Judge Mark A. Goldsmith sentenced Bartels to 46 months in prison, followed by two years of supervised release. (*Id.* at Pg ID 340-41.) Bartels' projected release date is September 27, 2017. (ECF No. 64, ¶ 4.)

Bartels represents that he is "young enough to be reformed and rejoin law-abiding society with all the help available from prolonged placement at a federal halfway house." (*Id.*, ¶ 5.) As of the filing of the motion, Bartels was enrolled in BOP's Residential Drug Abuse Program and was expected to graduate in June 2016. He has participated in four BOP programs as preparation for his release and rehabilitation. (*Id.*, ¶ 8.) Bartels has expressed remorse for his offense and cooperated with prosecutors in his case. (*Id.*, ¶ 11.)

Bartels seeks a recommendation from this Court that he should be afforded the maximum placement time in a RRC/halfway house of twelve months. (*Id.*, ¶ 10.) In response, the government has stated it takes no position on Defendant's request. (ECF No. 65 at Pg ID 357.)

III. Legal Standard

The BOP has the discretion to place an inmate into “any available penal or correctional facility.” 18 U.S.C. § 3621(b). Title 18 Section 3624(c) of the United States Code discusses the placement of a prisoner during the final portion of his sentence:

The Director of the [BOP] shall, to the extent practicable, ensure that a prisoner serving a term of imprisonment spends a portion of the final months of that term (not to exceed 12 months), under conditions that will afford that prisoner a reasonable opportunity to adjust to and prepare for the reentry of that prisoner into the community. Such conditions may include a community correctional facility.

18 U.S.C. § 3624(c)(1).

A court can make a recommendation that an incarcerated person serve part of their imprisonment in a community corrections facility. 18 U.S.C. § 3621(b)(5).

IV. Analysis

Bartels states he is young and has begun rehabilitating himself. The evidence supports both assertions. (ECF No. 64, ¶ 5.) He has participated in the BOP’s Residential Drug Abuse Program and four additional BOP programs in anticipation of his release. (*Id.*, ¶¶ 5, 7, 8.) Bartels appears to be an appropriate candidate for RRC placement based on his actions while incarcerated and remorse for his crime. (*Id.*, ¶ 11.)

V. Conclusion

Accordingly,

IT IS ORDERED that Defendant's Motion Requesting a Judicial Recommendation Concerning Length of RRC/Halfway House Placement (ECF No. 64) is **GRANTED** and the Court **RECOMMENDS** that the Bureau of Prisons place Bartels in a residential reentry center for the remainder of his sentence.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: November 29, 2016

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, November 29, 2016, by electronic and/or U.S. First Class mail.

s/ Richard Loury
Case Manager